

November 24, 1981

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of )

TEXAS UTILITIES GENERATING )  
COMPANY, et al. )

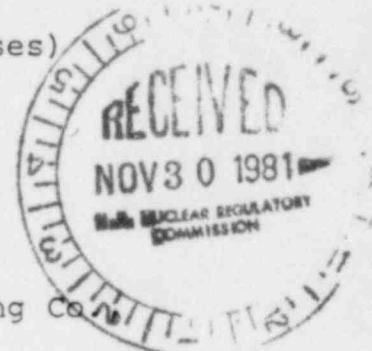
(Comanche Peak Steam Electric )  
Station, Units 1 and 2) )

Docket Nos. 50-445  
50-446

(Application for  
Operating Licenses)

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

APPLICANTS' MOTION FOR DISMISSAL OF  
CONTENTION 9 ON AN EXPEDITED BASIS



On November 20, 1981, Texas Utilities Generating Company, et al. ("Applicants") and Intervenor Citizens for Fair Utility Regulation ("CFUR") entered into a Stipulation in which CFUR voluntarily withdrew its Contention 9 from litigation in this proceeding. A copy of the Stipulation was served on the Board and each of the parties on November 20, 1981. A copy also is attached hereto.

The effectiveness of the Stipulation is contingent upon its acceptance by the NRC Staff and dismissal of Contention 9 by the Licensing Board. The NRC Staff today authorized Applicants to state that the Staff accepts the Stipulation and supports CFUR's voluntary withdrawal of Contention 9. This fulfills the contingency in the Stipulation on NRC Staff approval.

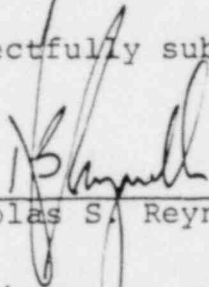
Accordingly, there being no issue to litigate on Contention 9, Applicants move the Board to dismiss Contention 9 from

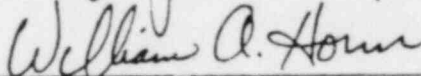
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this proceeding. In view of the fact that the hearing is scheduled for next week, Applicants request that the Board act on this motion expeditiously. Applicants request that the Board notify the parties by telephone of its decision, by tomorrow if possible, so that Applicants, the NRC Staff and CFUR will not need to prepare further for litigation of Contention 9 or cause their witnesses on Contention 9 to attend the prehearing conference or the hearing. \*/

Respectfully submitted,

  
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Nicholas S. Reynolds

  
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Counsel for Applicants

November 24, 1981

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\*/ If the Board need even consider whether to retain Contention 9 as a sua sponte issue, the affidavits of Applicants and the NRC Staff filed in support of summary disposition of Contention 9 establish that no "serious safety, environmental, or common defense and security matter exists." See Commission Order in Comanche Peak, CLI-81-24 (September 22, 1981).